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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE DEPUTY ASSISTANT COMMISSIONER
FOR PATENT POLICY AND PROJECTS

In re the Patent Application of:

Shigeyuki KURODA

Serial No. 09/902,112

Filed: July 11, 2001

ATTN: BOX DAC

For: METHOD AND APPARATUS FOR
CALCULATING AN ENVIRONMENTAL
INDICATOR AND RECORDING
MEDIUM WITH CALCULATION
PROGRAM RECORDED THEREON

PETITION UNDER 37 C.F.R. §1.181
TO ACCORD FILING DATE OF JULY 11, 2001

BOX DAC
Commissioner of Patents
Washington, D.C. 20231

RECEIVED

OCT 31 2001

OFFICE OF PETITIONS

Sir:

Applicant hereby petitions for the withdrawal of the Notice of Incomplete Nonprovisional Application mailed on August 28, 2001, and for according the above-identified application with a filing date of July 11, 2001.

In support of the Petition to Accord a Filing Date of July 11, 2001, the applicants, through their attorneys, hereby submit (1) a copy of the papers as filed; (2) a copy of the postcard

bearing the stamp of the Patent and Trademark Office mail room acknowledging the filing of the application; and (3) a declaration prepared and executed by Paula L. Talarek, an IP paralegal, attesting to the fact that the new application was complete at filing.

The application papers were deposited with the Patent and Trademark Office (USPTO) on July 11, 2001. The deposited application papers include a specification containing a description of eighteen pages (pages 1-18), claims 1 through 5 provided on three pages (pages 19-21), a one-page abstract (page 22), and seven sheets of drawings containing figures 1 through 7. A copy of the eighteen-page specification, the three pages of claims, and the seven sheets of drawings are provided along with this petition.

The application papers deposited with the USPTO on July 11, 2001 were accompanied by two postcard receipts. The first of the two postcard receipts was presented on July 11, 2001 along with the application papers and stamped with the Office Date stamp of July 11, 2001. A copy of the postcard receipt bearing the Office Date stamp of July 11, 2001 is provided along with this petition.

On July 23, 2001, almost two weeks after the July 11, 2001 date of deposit, the USPTO mailed the second of the two postcard receipts. Unlike the first postcard receipt bearing the Office Date stamp of July 11, 2001, the mailed postcard receipt contends that the USPTO did not receive the specification, claim and abstract. The second postcard receipt also bears a bar code having a date of July 11, 2001, but does not bear an Office Date stamp. A copy of the second postcard receipt mailed on July 23, 2001 is provided along with this petition.

The USPTO mailed a Notice of Incomplete Nonprovisional Application on August 28, 2001. The Notice indicates that a filing date has not been accorded to the above-identified application due to the alleged absence of a specification and at least one claim. A copy of the Notice is provided along with this petition.

This is a petitionable issue because Applicant seeks review of the refusal to accord the above-identified application with a filing date of July 11, 2001.

The filing date of an application for patent is the date on which a specification containing a description and at least one claim, and any drawing, are filed in the USPTO. See 37 C.F.R.

§1.53(b) .

The USPTO has a well-established and well-published practice of providing a receipt for papers filed in the USPTO to any applicant desiring a receipt. This practice requires that any paper for which a receipt is desired be filed in the USPTO with a postcard identifying the paper. A postcard receipt that itemizes and properly identifies the papers that are being filed serves as *prima facie* evidence of receipt in the USPTO. See M.P.E.P. §505.

The postcard receipt bearing the Office Date stamp of July 11, 2001 itemizes and properly identifies the specification of eighteen pages, claims 1 through 5 provided on three pages, the one-page abstract, and seven sheets of drawings containing figures 1 through 7.

Thus, the postcard receipt bearing the Office Date stamp of July 11, 2001 serves as *prima facie* evidence for the purpose of establishing that a specification of eighteen pages, claims 1 through 5 provided on three pages, a one-page abstract, and seven sheets of drawings containing figures 1 through 7 were deposited with the USPTO on July 11, 2001.

Accordingly, this application was complete on July 11, 2001,

and should be properly accorded a filing date of July 11, 2001.

The Notice of Incomplete Nonprovisional Application of August 28, 2001 also requested the submission of a newly executed oath or declaration.

In response, it is believed that the Notice has been mailed in error making this requirement for a newly executed oath or declaration moot.

Nevertheless, the application papers deposited with the USPTO on July 11, 2001 include a two-page declaration. The postcard receipt bearing the Office Date stamp of July 11, 2001 itemizes and properly identifies the two-page declaration. Thus, the postcard receipt serves as *prima facie* evidence for the purpose of establishing that the two-page declaration was deposited with the USPTO on July 11, 2001. A copy of the declaration is provided along with this petition.

Upon this petition and in view of the evidence submitted, it is requested that that the Notice of Incomplete Nonprovisional Application mailed on August 28, 2001 be withdrawn.

Upon this petition and in view of the evidence submitted, it

is further requested that the above-identified application be accorded with a filing date of July 11, 2001.

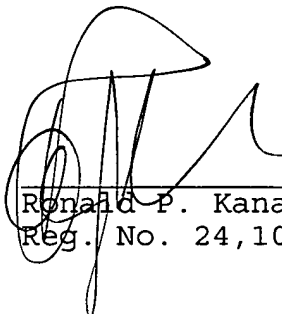
No fee is believed required to support this petition. See 37 C.F.R. §1.181.

However, if a fee is required, the Commissioner is hereby authorized to charge the petition fee to Deposit Account No. 18-0013.

Please charge Deposit Account No. 18-0013 for any additional costs that may be incurred.

Respectfully submitted,

Dated: October 29, 2001



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